DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1345

[Docket No. NHTSA–2005–22879]

RIN 2127–AJ72

Incentive Grant Criteria for Occupant Protection Programs

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the application due date for the regulation governing the Occupant Protection Incentive Grant Program, 23 CFR part 1345 from August 1 of the applicable fiscal year to February 15. On November 14, 2005, NHTSA issued an interim final rule and technical amendments to the regulation in light of new legislation extending the program. The interim final rule proposed to change the application due date from August 1 to February 15 of the applicable fiscal year. We solicited comments from the States on this single issue. No comments were received.

DATES: The final rule is effective December 30, 2005.

FOR FURTHER INFORMATION CONTACT: For program issues: Judy Hammond, Injury Control Operations and Resources, NTI–200, telephone (202) 366–2121, fax (202) 366–7394. For legal issues: David Bonelli, Office of Chief Counsel, NCC–113, telephone (202) 366–1834, fax (202) 366–3820, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 2003 of The Transportation Equity Act for the 21st Century (TEA–21), Pub. L. 105–178 (1998) established a new occupant protection incentive grant program under Section 405 of Title 23, United States Code. Under this program, States could qualify for incentive grant funds by adopting and implementing effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. The program made grant funds available from fiscal year (FY) 1998 through FY 2003, and was continued through FY 2005 by Congressional appropriations extending TEA–21 grant programs. On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), Pub. L. 109–59. SAFETEA–LU extends the occupant protection incentive grant program from FY 2006 through FY 2009.

On November 14, 2005, NHTSA issued an interim final rule and technical amendments to the regulation governing the Occupant Protection Incentive Grant program, 23 CFR part 1345, in light of SAFETEA–LU's extension of the program. The technical amendments conformed the dates of the regulation to those in SAFETEA–LU. The interim final rule proposed to change the application due date from August 1 to February 15 of the applicable fiscal year. We indicated that an earlier application due date is appropriate for the new program because less lead time is necessary for States to submit applications under the extension of this well-established program. We also noted that the new due date would allow these grant funds to be awarded in time for spring national safety belt mobilization campaigns. We solicited comments from the States on this single issue until December 14, 2005. No comments were received. Therefore, this final rule adopts our proposed change to the application due date in § 1345.4(a)(4) from August 1 of the applicable fiscal year to February 15. The agency finds good cause to make this rule effective immediately, because of the need to give States sufficient notice of application requirements.

Statutory Basis for This Final Rule

The statutory basis for this rule is the Safe, Accountable, Flexible, Efficient Transportation Equity Act '' A Legacy for Users (SAFETEA–LU), Pub. L. 109–59 (2005). SAFETEA–LU extends the occupant protection incentive grant program from FY 2006 through FY 2009 by amending provisions of 23 U.S.C. 405.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. This rulemaking document is not significant under Executive Order 12866 or the Department of Transportation's (DOT) regulatory policies and procedures. (44 FR 11034, February 26, 1979.) This rulemaking action makes only a single change—an amendment to the application due date '' to the regulation governing the Occupant Protection Incentive Grant program. It will not impose any additional burden on any person. The agency believes that this impact is minimal and does not warrant the preparation of a regulatory evaluation.

B. Environmental Impacts

We have not conducted an evaluation of the impacts of this final rule under the National Environmental Policy Act. This rulemaking action makes only a single change—an amendment to the application due date—to the regulation governing the Occupant Protection Incentive Grant program. This rulemaking does not impose any change that would result in any environmental impacts. Accordingly, no environmental assessment is required.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act. This rulemaking action makes only a single change—an amendment to the application due date—to the regulation governing the Occupant Protection Incentive Grant program. States are the recipients of any funds awarded under this program, and they are not considered to be small entities, as that term is defined in the Regulatory Flexibility Act. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

D. Executive Order 13132, Federalism

E.O. 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' This final rule does not change the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. This final rule merely changes the application due date in § 1345.4(a)(4) from August 1 of applicable fiscal year to February 15.

E. Paperwork Reduction Act

This final rule does not add any new information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The existing requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). These

requirements have been approved under OMB No. 2127–0600, through April 30, 2008.

F. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This action will not result in additional expenditures by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

G. Civil Justice Reform

This final rule does not have any retroactive effect. A petition for reconsideration or other administrative proceedings are not required before parties may file suit in court.

H. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit *http://dms.dot.gov*.

List of Subjects in 23 CFR Part 1345

Grant programs—Transportation, Highway safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 23 CFR Part 1345 is amended to read as follows:

PART 1345—INCENTIVE GRANT CRITERIA FOR OCCUPANT PROTECTION PROGRAMS

■ 1. The authority citation continues to read as follows:

Authority: Pub. L. 105–78; Pub. L. 109–59; 23 U.S.C. 405, delegation of authority at 49 CFR 1.50.

■ 2. Accordingly, the interim final rule amending 23 CFR part 1345 which was published at 70 FR 69078 on November 14, 2005, is adopted as a final rule without change.

Issued on: December 23, 2005.

Gregory Walter,

Senior Associate Administrator for Policy and Operations.

[FR Doc. 05–24653 Filed 12–29–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–108–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the West Virginia regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). West Virginia revised its Code of State Regulations (CSR) concerning surety bonds. The amendment is intended to provide the State with an alternative source of reliable financial information about the surety, and to allow sureties that are licensed and in good financial condition but are not currently listed with the U.S. Department of the Treasury as an acceptable surety of Federal bonds to provide surety bonds to the coal industry in West Virginia. The amendment was authorized by the West Virginia Secretary of State as an emergency rule under the State's Administrative Procedures Act.

DATES: *Effective Date:* December 30, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158, Internet address: *chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated October 17, 2005 (Administrative Record Number WV–1441), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment consists of a proposed emergency rule revision to CSR 38–2–11.3.a.3 concerning surety bonds, a briefing document, an emergency rule justification, which includes an affidavit that was submitted in support of the emergency rule package, and a decision by the Secretary of State dated October 11, 2005, approving the emergency rule.

In its submittal of this amendment, the WVDEP stated that its current rule at CSR 38–2–11.3.a.3 requires that after July 1, 2001, a surety must be recognized by the Treasurer of the State as holding a certificate of authority from the United States Department of the Treasury as an acceptable surety on Federal bonds (otherwise referred to as being ''T-Listed''). The WVDEP stated that the original standard was adopted to address concerns about the financial solvency of sureties providing reclamation bonds in West Virginia. The WVDEP did not have the necessary resources or expertise to regularly and timely monitor the financial condition of sureties doing business in West Virginia. However, a surety that is T-Listed is required to provide, on a regular basis, financial information to the U.S. Department of the Treasury, which reviews this information and provides its findings to State regulatory agencies. While this information provided by the Department of the Treasury has been helpful, WVDEP